

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

JOSE M. RUIZ, aka JOSE RODRIGUEZ
FLORES,

Defendant/Petitioner.

NO. CR95-5851JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for a Writ of Error *Audita Querela*.

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks resentencing by way of a Writ of *Audita Querela* based upon United States

1 v. Booker, 125 S.Ct. 738 (2005). The Defendant's sentence became final prior to the Booker
2 decision. Booker does not apply retroactively to cases that became final prior to January 12, 2005.
3 Guzman v. United States, 2005 WL 803214. Accordingly, it is hereby

4 ORDERED that Defendant's Motion for Writ of Error *Audita Querela* is DISMISSED.

5 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel of
6 record.

7 DATED this 9h day of August, 2005.

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9 /s JACK E. TANNER

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11 JACK E. TANNER
12 SR. UNITED STATES DISTRICT JUDGE
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